

EXHIBIT C

11 | Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Federal Trade Commission,
Plaintiff,

v.
Grand Canyon Education, Inc., *et al.*,
Defendants.

No. CV-23-02711-PHX-DWL

**PLAINTIFF'S RESPONSE TO
DEFENDANT GRAND CANYON
EDUCATION, INC.'S FIRST SET OF
INTERROGATORIES TO PLAINTIFF
FEDERAL TRADE COMMISSION**

19 In accordance with Federal Rules of Civil Procedure 26 and 33, plaintiff Federal
20 Trade Commission (“FTC” or “Commission”) hereby responds to Defendant Grand
21 Canyon Education, Inc.’s First Set of Interrogatories to Plaintiff Federal Trade
22 Commission. The FTC’s responses to the Interrogatories represent the FTC’s present
23 knowledge based on its investigation, information, and preparation to date. The FTC
24 reserves the right to supplement, revise, modify, or otherwise change or amend its
25 responses to the Interrogatories.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

2 1. The FTC objects to the Interrogatories to the extent that they seek to impose on
3 the FTC any obligations beyond those provided for in the Federal Rules of Civil
4 Procedure.

5 2. The Commission objects that each Interrogatory that includes the defined term
6 “Communications” is overbroad and unduly burdensome because Communications is
7 defined in this Set of Interrogatories to include “every exchange of information by any
8 means . . . without limitation” and, thus, requests identification of every interaction with
9 information in any form or context. Furthermore, the definition of Communications
10 states that anything that “relates to any correspondence or communication” is “deemed”
11 to be a correspondence or communication —and this First Set of Interrogatories defines
12 “related” in a manner that encompasses information that is far removed from subject
13 matter of the Interrogatory. The burden of compiling a description of each “deemed”
14 Communication outweighs any likely benefit.

15 3. The Commission objects to each Interrogatory that includes the term "any." The
16 instructions construe "any" to mean "each and every" and "any and all." Each
17 Interrogatory requesting "each and every" and "any and all" information fails to describe
18 the information requested with reasonable particularity. In addition, the burden of
19 producing the information requested by the Interrogatories for each and every exchange
20 encompassed within every Interrogatory would outweigh any likely benefit.

21 4. The FTC objects that these Interrogatories —including Interrogatories that
22 incorporate the definition of “Communications” and construction of “any” — seek
23 information that is not discoverable pursuant to the Federal Rules of Civil Procedure and
24 is exempt from disclosure by law, including information protected from disclosure by
25 statute, the attorney-client privilege, the work product doctrine, the deliberative process
26 privilege, the law enforcement evidentiary or investigatory files privilege, the

1 government informant's privilege, or any other applicable privilege of law. The FTC
 2 does not intend to waive any of the privileges asserted in this objection by any
 3 inadvertent reference to, or production of, protected documents or information. The
 4 Amended Complaint is the work product of FTC attorneys, paralegals, and support staff
 5 investigating of potential violations of federal law in anticipation of litigation, the FTC's
 6 deliberative process, and investigatory procedures. Documents, communications and
 7 conversations relating to, analyzing, evaluating, selecting, gathering, and describing
 8 information in the course of such investigation is protected by the work-product
 9 doctrine, and some materials are protected from disclosure by statute, the attorney-client
 10 privilege, the deliberative process privilege, the law enforcement evidentiary or
 11 investigatory files privilege, and the government informant's privilege. The foundation
 12 for the FTC's privileges and withholding under the work-product doctrine will be further
 13 set forth in a privilege log.

14 5. The FTC objects to the instruction to provide full and complete responses because
 15 these Interrogatories broadly demand identification or narrative descriptions of all facts,
 16 Documents, Communications, conversations, or transactions concerning an allegation or
 17 purported allegation. Such requests are overly broad, unduly burdensome, and
 18 improper. *See FTC v. Am. eVoice, Ltd.*, No. CV 13-03-M-DLC, 2017 WL 476617, at *7
 19 (D. Mont. Feb. 3, 2017); *Wilcox v. Changala*, No. CV-10- 3048, 2012 WL 12844083
 20 (E.D. Wash. Jan. 18, 2012); *Lucero v. Valdez*, 240 F.R.D. 591, 594 (D.N.M. 2007).

21 6. The FTC objects that these Interrogatories are misdirected, premature, and unduly
 22 burdensome because they request that the FTC provide comprehensive accounts and
 23 detailed information that relates to the affirmative defenses for which Defendants have
 24 not provided a foundation, has not been provided in discovery or is the subject of
 25 outstanding requests, or is uniquely accessible to Defendants. The Commission does not
 26 have general access to relevant unredacted education records as Defendants have not

1 initiated or completed the notice procedures in accordance with the Order entered in this
 2 action on October 9, 2024, and without discovery the Commission does not have access
 3 to details requested in these Interrogatories. Defendants also have unique access to
 4 information regarding the content of and changes to websites, enrollment agreements,
 5 catalogues, advertising and marketing solicitations, and other material. The burden of
 6 requiring the Commission to provide details that the Commission must obtain through
 7 discovery —such as distribution dates for agreements or advertising —outweighs the
 8 benefit of such discovery and is not proportional to the needs of this Litigation,
 9 particularly given Defendants' control of such information, the limitations on discovery,
 10 and the stage of discovery.

11 **I. INTERROGATORY RESPONSES**

12 **INTERROGATORY NO. 1:** Identify every consumer with whom You have had
 13 any Communication pertaining to any of the allegations in Your Amended Complaint,
 14 and for each Communication, provide a brief description of the nature of the
 15 Communication, mode of the Communication, date of the Communication, substance of
 16 the Communication, and approximate length of the Communication.

17 **INTERROGATORY NO. 1 RESPONSE**

18 The FTC objects that this Interrogatory fails to describe the information requested
 19 with reasonable particularity, is ambiguous, and is overbroad in requesting identification
 20 of *every* consumer with whom the FTC has had *any* Communication pertaining to the
 21 allegations in the *entire* Amended Complaint, as it is not limited to consumers who have
 22 information relevant to the claims or defenses in this action, nor is it proportional to the
 23 needs of the Litigation. The Interrogatory's request for the date, length, nature, and
 24 substance of every such Communication is also overbroad and unduly burdensome. The
 25 FTC further objects to this Interrogatory as duplicative, as the FTC has already disclosed
 26 in its Rule 26(a)(1) persons who are likely to have discoverable information.

27 PLAINTIFF'S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.'S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

1 The Interrogatory is also overbroad and unduly burdensome because
2 “Communications” is defined in this Set of Interrogatories to include “every exchange of
3 information by any means . . . without limitation” and, thus, requests identification of
4 every interaction with information in any form or context. Furthermore, the definition of
5 Communications states that anything that “relates to any correspondence or
6 communication” is “deemed” to be a correspondence or communication—and this First
7 Set of Interrogatories defines “related” in a manner that encompasses information that is
8 far removed from subject matter of the Interrogatory. The burden of compiling a
9 description of each “deemed” Communication outweighs any likely benefit.

10 In addition, the instructions of this Set of Interrogatories construe “any” to mean
11 “each and every” and “any and all.” The burden of producing the information requested
12 by the Interrogatory for each and every exchange encompassed within this Interrogatory
13 would outweigh any likely benefit.

14 Insofar as this request seeks identification of communications with consumers
15 that support principal and material allegations in the Amended Complaint, the FTC
16 responds that information responsive to this request is ascertainable from Documents
17 that will be produced in response to Defendant GCE’s First Set of Document requests.
18 Reports from consumers who have contacted the FTC and reported unwelcome
19 telemarketing calls on behalf of GCU to persons on do-not-call lists, issues regarding the
20 GCU doctoral program or referenced GCU’s representations that it is a non-profit will be
21 produced in response to those Requests. Authorizations to access education records will
22 be produced in the response to those Requests. Furthermore, statements that consumers
23 have provided to the FTC or other agencies regarding these topics will also be produced
24 in response to those First Set of Requests.

25 The FTC will not provide further details in response to this Interrogatory and
26 objects that Communications with consumers in preparation for litigation or trial

1 regarding the conduct alleged in the Amended Complaint, and the recollections and
 2 mental impressions of Commission staff regarding such Communications, are protected
 3 by the work-product doctrine, and details requested by the Interrogatory (e.g., dates and
 4 duration) are protected work product and the burden of compiling such details is not
 5 proportional to the needs of the case.

6

7 **INTERROGATORY NO. 2:** Identify every consumer with whom You have had
 8 any Communication whose complaint made to You gives rise to Your allegation that
 9 consumers were “thwarted” because they “cannot afford the additional costs and time
 10 necessary to fulfill GCU’s requirements beyond the twenty courses identified as
 11 required,” as alleged in Paragraph 63 of the Amended Complaint. For each
 12 Communication, provide a brief description of (a) the name of the Person with whom
 13 You communicated; (b) the nature of the Communication; (c) the mode of the
 14 Communication; (d) the date of the Communication; (e) the substance of the
 15 Communication; and (f) GCU’s alleged “requirements” beyond the courses identified as
 16 required.

17 **INTERROGATORY NO. 2 RESPONSE**

18 The FTC objects to this Interrogatory as ambiguous and overbroad in requesting
 19 identification of *every* consumer with whom the FTC has had *any* Communication
 20 pertaining to the allegations in Paragraph 63 of the Amended Complaint and is not
 21 limited to principal and material support or the ordinary meaning of communications,
 22 nor is it proportional to the needs of the Litigation. The Interrogatory’s request for the
 23 date, length, nature, and substance of every such Communication is also overbroad and
 24 unduly burdensome. The Interrogatory is also overbroad and unduly burdensome
 25 because “Communications” is defined in this Set of Interrogatories to include “every
 26 exchange of information by any means . . . without limitation” and, thus, requests

27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

28

1 identification of every interaction with information in any form or context. Furthermore,
2 the definition of Communications states that anything that “relates to any
3 correspondence or communication” is “deemed” to be a correspondence or
4 communication—and this First Set of Interrogatories defines “related” in a manner that
5 encompasses information that is far removed from subject matter of the Interrogatory.
6 The burden of compiling a description of each “deemed” Communication outweighs any
7 likely benefit.

8 In addition, the instructions of this Set of Interrogatories construe “any” to mean
9 “each and every” and “any and all.” The burden of producing the information requested
10 by the Interrogatory for each and every exchange encompassed within this Interrogatory
11 would outweigh any likely benefit.

12 Insofar as this Interrogatory seeks identification of Communications with
13 consumers that principally and materially support allegations in Paragraph 63 of the
14 Amended Complaint allegations in the Amended Complaint, information responsive to
15 this Interrogatory is ascertainable from Documents from consumers who have contacted
16 the FTC and reported experiences that support Paragraph 63 of the Amended Complaint
17 and from Documents in Defendants’ possession, custody, or control. Responsive, non-
18 privileged documents will be produced in response to GCE’s First Set of Document
19 Requests.

20 The FTC will not provide further details in response to this Interrogatory and
21 objects that Communications with consumers in preparation for litigation or trial
22 regarding the conduct alleged in the Amended Complaint, and the recollections and
23 mental impressions of Commission staff regarding such Communications, are protected
24 by the work-product doctrine. Details requested by the Interrogatory (e.g., dates and
25 duration) are protected work product and the burden of compiling such details is not
26 proportional to their relevance or the needs of the case.

27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
PLAINTIFF FEDERAL TRADE COMMISSION

1 **INTERROGATORY NO. 3:** Identify every Communication You have had [sic]
2 Persons currently or formerly employed by or affiliated with GCE or GCU, including any
3 current or former students of GCU, pertaining to any of the allegations in Your
4 Amended Complaint. For each Communication, identify (a) the name of the Person
5 with whom You communicated, (b) the nature of the Communication, (c) the mode of
6 the Communication, (d) the date of the Communication, and (e) the substance of the
7 Communication.

8 **INTERROGATORY NO. 3 RESPONSE**

9 The FTC construes this Interrogatory as a request for identification of
10 Communications *with* Persons currently or formerly employed by or affiliated with GCE
11 or GCU— excluding Communications that FTC staff have had with counsel for GCE or
12 GCU and GCE’s designee during pre-complaint investigation of GCE and GCU’s
13 conduct and during this Litigation.

14 The FTC objects to this Interrogatory as ambiguous and overbroad in requesting
15 identification of *every* Communication, and is not limited to communications of
16 significance or by ordinary meaning of communications, nor is it proportional to the
17 needs of the Litigation. The Interrogatory’s request for the date, nature, and substance of
18 every such Communication is also overbroad and unduly burdensome. The
19 Interrogatory is also overbroad and unduly burdensome because “Communications” is
20 defined in this Set of Interrogatories to include “every exchange of information by any
21 means . . . without limitation” and, thus, requests identification of every interaction with
22 information in any form or context. Furthermore, the definition of Communications
23 states that anything that “relates to any correspondence or communication” is “deemed”
24 to be a correspondence or communication— and this First Set of Interrogatories defines
25 “related” in a manner that encompasses information that is far removed from subject
matter of the Interrogatory. The burden of compiling a description of each “deemed”

26 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
27 PLAINTIFF FEDERAL TRADE COMMISSION

1 Communication outweighs any likely benefit.

2 In addition, the instructions of this Set of Interrogatories construe “any” to mean
 3 “each and every” and “any and all.” The burden of producing the information requested
 4 by the Interrogatory for each and every exchange encompassed within this Interrogatory
 5 would outweigh any likely benefit.

6 The FTC objects that this Interrogatory seeks information protected by the
 7 informant’s privilege. *In re Perez*, 749 F.3d 849, 856 (9th Cir. 2014). Furthermore,
 8 communications with other Persons affiliated with GCE or GCU in preparation for
 9 litigation or trial regarding the conduct alleged in the Amended Complaint, and the
 10 recollections and mental impressions of Commission staff regarding such
 11 Communications, are protected by the work-product doctrine. Details requested by the
 12 Interrogatory (e.g., dates and duration) are protected work product and the burden of
 13 compiling such details is not proportional to their relevance or the needs of the case.
 14 The Commission does not currently have any Communications to describe that are not
 15 protected by the aforementioned privileges or the work-product doctrine.

16

17 **INTERROGATORY NO. 4:** Identify every communication You have had with a
 18 Person employed by or affiliated with any other state or federal government agency,
 19 including the Department of Education, Consumer Financial Protection Bureau, State
 20 Attorneys General, or the Department of Veteran Affairs, pertaining to any of the
 21 allegations in Your Amended Complaint. For each Communication, identify (a) the
 22 name of the Person with whom You communicated; (b) the nature of the
 23 Communication; (c) the mode of the Communication; (d) the date of the
 24 Communication; and (e) the substance of the Communication.

25 **INTERROGATORY NO. 4 RESPONSE**

26 The FTC objects to this Interrogatory as ambiguous and overbroad in requesting
 27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

1 identification of *every* communication, and is not limited to significant communications
2 or the ordinary meaning of communications, nor is it proportional to the needs of the
3 Litigation. The Interrogatory's request for the date, nature, and substance of every such
4 Communication is also overbroad and unduly burdensome. The Interrogatory is also
5 overbroad and unduly burdensome because "Communications" is defined in this Set of
6 Interrogatories to include "every exchange of information by any means . . . without
7 limitation" and, thus, requests identification of every interaction with information in any
8 form or context. Furthermore, the definition of Communications states that anything that
9 "relates to any correspondence or communication" is "deemed" to be a correspondence
10 or communication—and this First Set of Interrogatories defines "related" in a manner
11 that encompasses information that is far removed from subject matter of the
12 Interrogatory. The burden of compiling a description of each "deemed" Communication
13 outweighs any likely benefit.

14 In addition, the instructions of this Set of Interrogatories construe "any" to mean
15 "each and every" and "any and all." The burden of producing the information requested
16 by the Interrogatory for each and every exchange encompassed within this Interrogatory
17 would outweigh any likely benefit.

18 The FTC objects to this Request on the basis of the law enforcement evidentiary
19 or investigatory files privilege, the deliberative process privilege, and the work-product
20 doctrine. Accordingly, the FTC will not produce communications with other law
21 enforcement agencies, documents related to such communications, or memoranda and
22 analyses prepared in anticipation of litigation, or communications and documents with
23 third parties protected by the work product privilege. The FTC also objects to this
24 Interrogatory as ambiguous and overbroad in requesting identification of "every
25 communication" with any Person "employed by or affiliated with any other state or
26 federal government agency" and will construe the Interrogatory as seeking substantive

1 non-privileged communications requesting information regarding Defendants'
 2 marketing, and exclude automated online queries for public records.

3 The FTC responds that it has communicated with the following agencies to
 4 request information regarding Defendants' telemarketing, application for recognition, or
 5 consumer complaints:

- 6 • Alaska Department of Law, Commercial, Fair Business & Child Support
 7 Section
- 8 • Arizona Secretary of State, Business Services Division
- 9 • Colorado Department of Law, Consumer Protection Section
- 10 • Indiana Office of the Attorney General, Consumer Protection Division
- 11 • North Carolina Secretary of State, Telephonic Sellers Registration
- 12 • Ohio Attorney General, Consumer Protection Unit
- 13 • Oklahoma Attorney General, TRACR
- 14 • Washington State Department of Licensing
- 15 • West Virginia State Tax Department, Office of Business Registration
- 16 • United States Department of the Treasury, Internal Revenue Service
- 17 • United States Department of Education.

18 The non-privileged information regarding the mode, substance and date of the
 19 communication may be ascertained from Documents the FTC will produce in response
 20 to GCE's First Set of Document requests.

21
 22 **INTERROGATORY NO. 5:** Identify every instance in which Defendants initiated
 23 an outbound telephone call to a consumer in the United States to induce the purchase of
 24 educational services and for which the telephone numbers were "collected through
 25 online and social media advertisements that do not clearly disclose to consumers the
 26 language purporting to authorize telemarketing," as alleged in Paragraph 41 of Your

27 PLAINTIFF'S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.'S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

1 Amended Complaint. For each instance, identify (a) the name of the Person who
 2 received the outbound telephone call from Defendants; (b) the date of the call; (c) the
 3 substance of the call; (d) the specific language purporting to authorize telemarketing; and
 4 (e) the basis for Your belief that the referenced language does not satisfy an exemption
 5 to the National Do Not Call Registry.

6 **INTERROGATORY NO. 5 RESPONSE**

7 The FTC objects that this Interrogatory is misdirected and premature because it
 8 seeks material relevant to an affirmative defense for which Defendants have yet to
 9 provide a foundation. The Interrogatory seeks the basis for an affirmative defense that
 10 consumers on the Do Not Call Registry authorized telemarketing calls on behalf of
 11 GCU. The Telemarketing Sales Rule (“TSR”) requires that such authorization be proven
 12 by the seller or telemarketer such that the seller or telemarketer: “[c]an demonstrate that
 13 the seller has obtained the express agreement, in writing, of such person to place calls to
 14 that person. Such written agreement shall clearly evidence such person's authorization
 15 that calls made by or on behalf of a specific party may be placed to that person, and shall
 16 include the telephone number to which the calls may be placed and the signature of that
 17 person.” 16 C.F.R. § 310.4(b)(1)(iii)(B)(1). Defendants have the burden of securing
 18 written consent as required by the TSR and maintaining evidence to prove such
 19 authorization. *See* 16 C.F.R. § 310.5. Accordingly, it is incumbent on Defendants to
 20 identify every instance in which Defendants initiated an outbound telephone call
 21 permitted by such authorization, including the date of the call, the Person who
 22 authorized the call, and the specific language purporting to authorize telemarketing. As
 23 Defendants have not produced business records that show authorization or set forth the
 24 authorization language for particular calls, this Interrogatory is premature. The burden
 25 of demonstrating that the authorization was properly presented to the consumer, and
 26 signed by the consumer is on Defendants. Defendant GCE has acknowledged that it has

1 been unable to produce such evidence for more than 2.7 million calls, and has not
 2 produced evidence for tens of millions of other calls. The FTC does not have business
 3 records demonstrating outbound telephone call details or authorization, and considers all
 4 such outbound calls to be in violation of the TSR in the absence of Defendants
 5 producing admissible evidence that an individual gave valid consent to an authorization
 6 that complied with the TSR.

7 Furthermore, the FTC objects to the Interrogatory's request for identification of
 8 "the name of the Person who received the outbound telephone call from Defendants" and
 9 "the substance of the call." The Interrogatory's request for these irrelevant details is not
 10 within the proper scope of discovery, and a response would require expense that exceeds
 11 any benefit. The TSR violation arises from making an outbound telemarketing call to a
 12 given telephone number, without authorization, and does not depend on the name of the
 13 Person who received the call. In addition, all outbound calls made in connection with
 14 Defendants' program to induce the purchase of educational services are subject to the
 15 TSR.

16 Information identifying the date of outbound calls to telephone numbers obtained
 17 through these solicitations should be in business records of GCE that are the subject of
 18 ongoing discovery in this action. To the extent that Defendants claim that they obtained
 19 proper authorization for these outbound telephone calls through solicitations that used
 20 one of the four digital forms from GCE's records reproduced in the Amended
 21 Complaint, the Amended Complaint sets forth multiple reasons why these four
 22 solicitations would not constitute valid express authorization for an outbound
 23 telemarketing call under the TSR. Amended Complaint ¶¶ 41-46.

24

25 **INTERROGATORY NO. 6:** Identify every instance in which Defendants
 26 initiated an outbound telephone call to a consumer in the United States to induce

27 PLAINTIFF'S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.'S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

28

1 the purchase of educational services and “misrepresented, directly or indirectly,
 2 expressly or by implication, material information regarding GCU and its services,
 3 including, but not limited to representations that: [(a)] GCU is a non-profit institution;
 4 [(b)] GCU transitioned back to its prior manner of operation as a non-profit educational
 5 institution; [(c)] GCU doctoral degrees that include a dissertation are typically completed
 6 in twenty courses or 60 credits; and [(d)] GCU’s total charges for doctoral degrees that
 7 include a dissertation are the tuition and fees for twenty courses,” as alleged in
 8 Paragraph 89 of Your Amended Complaint. For each instance, identify (a) the name of
 9 the Person who received the outbound telephone call from Defendants; (b) the date of the
 10 call; (c) the substance of the call; and (d) the basis for Your belief that such outbound
 11 telephone call violated the Telemarketing Sales Rule.

12 **INTERROGATORY NO. 6 RESPONSE**

13 The FTC objects that this Interrogatory represents at least four discrete
 14 Interrogatories in its subparts [(a)]-[(d)]. Each Interrogatory is overbroad and unduly
 15 burdensome in requesting narrative details on every instance in which Defendants
 16 initiated an outbound call that involved any of the conduct described. Moreover, the
 17 Interrogatories are misdirected and premature at this early stage of discovery. The
 18 Interrogatories are also predicated on a distortion of Paragraph 89 of the Amended
 19 Complaint. Paragraph 89 alleges that Defendants have made the identified
 20 representations “in connection with the telemarketing of educational service,” and prior
 21 factual allegations describe how these representations were made in connection with
 22 Defendants’ telemarketing. Amended Complaint ¶¶ 22-23, 28-34, 50-56, 64-65. The
 23 violations of the TSR described in Paragraph 89 do not rest on representations in
 24 individual instances in which Defendants initiated an outbound telephone call to a
 25 consumer in the United States to induce the purchase of educational services. Based
 26 on GCE’s records, GCE telemarketers made approximately 17 million telemarketing

1 calls annually marketing GCU educational services. The four Interrogatories requesting
 2 details on “every instance” of such outbound calls including a particular representation
 3 are unduly burdensome and not proportional to the needs of discovery in this action, as
 4 such details are not necessary to demonstrate violations of the TSR. In addition, GCE
 5 has not produced the recordings, diaries of telemarketer communications, and other
 6 records detailing the telemarketers’ activities in ongoing discovery.

7

8 **INTERROGATORY NO. 7:** Identify by name and describe each and every
 9 advertisement or marketing material of any type, form, or medium that You claim
 10 misled consumers— affirmatively or by omission—regarding GCU’s nonprofit status.
 11 For each such advertisement or marketing material, identify: (a) the date(s) or
 12 approximate date(s) on which the consumer viewed the advertisement or marketing
 13 material; (b) the medium in which the advertisement or marketing material was
 14 presented; and (c) the specific content or omission(s) in the advertisement or marketing
 15 material that the consumer told You was misleading regarding GCU’s nonprofit status.

16 **INTERROGATORY NO. 7 RESPONSE**

17 The FTC objects that this contention Interrogatory is misdirected and premature
 18 at this early stage of discovery. Moreover, the request for details on “each and every
 19 advertisement or marketing material of any type, form, or medium that You claim” is
 20 unduly burdensome, not proportional to the needs of discovery in this action, as such
 21 details are not necessary to demonstrate violations of the TSR. Defendant GCE
 22 disseminated digital and print advertising through multiple channels; details regarding
 23 particular dates, which consumers viewed the advertisement, or what consumers reported
 24 are not required to demonstrate that Defendants circulated representations regarding
 25 GCU’s non-profit status. Furthermore, the information regarding the advertisements and
 26 marketing material, the media used to disseminate them, and the dates they were

27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

28

1 presented to consumers are in Defendants' possession, custody, and control. In addition,
 2 the Amended Complaint does not allege consumers reported specific content or
 3 omission(s) in the advertisement or marketing material regarding GCU's nonprofit
 4 status was misleading.

5

6 **INTERROGATORY NO. 8:** Identify by name and describe each enrollment
 7 agreement, catalogue, online publication, chart, and other material or Document
 8 that You allege Defendants distributed and that You claim misled consumers—
 9 affirmatively or by omission—regarding GCU's doctoral programs. For each material
 10 or Document, identify (a) the material or Document distributed; (b) the date(s) or
 11 approximate dates(s) on which the consumer viewed the material; (c) the principal and
 12 material facts that form the basis for Your allegation that each Defendant knew the
 13 representation(s) were not true; and (d) the specific content or omission(s) in the
 14 material that the consumer told You was misleading regarding GCU's doctoral
 15 programs.

16 **INTERROGATORY NO. 8 RESPONSE**

17 The FTC objects that subparts (c) and (d) represent discrete questions and,
 18 therefore, this Interrogatory represents at least three separate Interrogatories. The
 19 Interrogatories are ambiguous and unduly burdensome, and misdirected insofar as they
 20 demand the Commission provide detailed information on matters uniquely within
 21 Defendants' possession at this stage of discovery. The Commission does not have
 22 general access to relevant unredacted education records as Defendants have not initiated
 23 or completed the notice procedures in accordance with the Order entered in this action
 24 on October 9, 2024, and without discovery the Commission does not have details
 25 regarding the dates materials were in use. The burden of cataloguing the distribution
 26 dates for each enrollment agreement, catalogue, online publication, chart, and other

1 material outweighs the benefit of such discovery, and Defendants are uniquely in
 2 possession of such information. Subpart (b) is also overbroad and unduly burdensome in
 3 requesting narrative details on every instance in which the consumer viewed the
 4 material. Defendants recruited thousands of consumers for doctoral programs during the
 5 relevant time period, and Defendants have sole possession of the education records that
 6 would provide even a partial record of when consumers viewed enrollment agreements
 7 and other material. Subpart (c) demands facts about Defendants' knowledge of
 8 unspecified "representation(s)" — a demand contrary to the preceding text of the
 9 Interrogatory which requires identifying and describing "each material." Subpart (d) is
 10 ambiguous and unduly burdensome as the Amended Complaint does not allege and there
 11 is no requirement that a consumer report to the Commission "the specific content or
 12 omission(s) in the material" was misleading.

13

14 **INTERROGATORY NO. 9:** Identify with specificity all misrepresentations You
 15 allege were made on GCU's website, including (a) each alleged representation by GCE;
 16 (b) each alleged representation by GCU; and (c) the principal and material facts that
 17 form the basis for Your allegation that each Defendant knew the representations and
 18 omissions were likely to deceive consumers.

19 **INTERROGATORY NO. 9 RESPONSE**

20 The Commission objects that this Interrogatory is overbroad, ambiguous, and
 21 unduly burdensome. The Interrogatory encompasses "all misrepresentations" made on
 22 GCU's website without limitation. GCU's website is extensive, is frequently modified,
 23 and contains numerous representations on matters that are tangential to or outside the
 24 scope of this litigation. Further, the Interrogatory requests identification "with
 25 specificity all misrepresentations You allege were made on GCU's website" without
 26 identifying any specific allegation. Identifying and providing the details requested by

27 PLAINTIFF'S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.'S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

28

1 the Interrogatory regarding all misrepresentations would entail burden and expense
 2 outweighs any likely benefit to resolving the issues involved in this Litigation.
 3 Moreover, subpart (c)'s request for "the principal and material facts that form the basis
 4 for Your allegation that each Defendant knew the representations and omissions were
 5 likely to deceive consumers" does not reference any paragraph of the Amended
 6 Complaint. This Interrogatory is also misdirected and premature at this stage of discovery
 7 as Defendants have yet to provide relevant discovery.

8

9 **INTERROGATORY NO. 10:** With respect to Your allegation in Paragraph 32 of
 10 Your Amended Complaint that "GCE has established job 'performance metrics' for
 11 telemarketers that include 'Annual Student Counts' that specify the number of consumers
 12 each telemarketer should enroll and retain," identify the factual basis, including all
 13 principal and material facts, for Your allegation and identify all Documents and
 14 Communications that support this allegation.

15 **INTERROGATORY NO. 10 RESPONSE**

16 The Commission responds to the portion of this Interrogatory that requests the
 17 factual basis for Paragraph 32 of the Amended Complaint, and objects to the remainder
 18 of the Interrogatory as overbroad, unduly burdensome, and premature.

19 Paragraph 32 of the Amended Complaint is based on exhibits and statements filed
 20 in the summary judgment record of MacKillop v. Grand Canyon University, D. Mass.,
 21 Docket No. 1:18-cv-1119, and D. Ariz., Docket No. 2:23cv467, Grand Canyon
 22 University Counselor and University Development Counselor Job Expectations (GCE-
 23 FTC-CID-010-00000118- GCE-FTC-CID-010-00000135), and Corrective Action Plans.

24 The portion of the Interrogatory demanding "all principal and material facts" and
 25 "all Documents and Communications that support this allegation," is overbroad, unduly
 26 burdensome, and premature. The Commission objects to the request for "all principal

1 and material facts" for the allegation because of the volume of Corrective Action Plans,
 2 personnel reviews of hundreds of GCE telemarketers, and related documents is
 3 enormous, and the truth of this allegation may be established without all such facts, and
 4 Defendant GCE has superior access to the facts. The Commission objects to the portion
 5 of the Interrogatory that requests "all Documents and Communications that support this
 6 allegation" because a request to search for and describe all Documents and
 7 Communications that support these allegations would require descriptions of many
 8 Documents and Communications of marginal, indirect, or secondary support. Cataloging
 9 all such Documents and Communications that support this allegation would be
 10 unreasonably burdensome and not proportional to the needs of this case as the
 11 requirements and procedures are evident in general policy documents and exemplars. The
 12 Interrogatory is overbroad and unduly burdensome because Communications is defined
 13 in this Set of Interrogatories to include "every exchange of information by any means . . .
 14 without limitation" and, thus, requests identification of every interaction in which
 15 telemarketer expectation and metrics would appear. The Interrogatory is overbroad and
 16 unduly burdensome because the definition of Communications states that anything that
 17 "relates to any correspondence or communication" is "deemed" to be a correspondence
 18 or communication – and defines "related" in a manner that encompasses information that
 19 is far removed from the actual evidence of the representation. The burden of compiling
 20 a description of each "deemed" Communication outweighs any likely benefit.

21 In addition, the instructions of this set of Interrogatories construe "any" to mean
 22 "each and every" and "any and all." The burden of producing the information requested
 23 by the Interrogatory for each and every exchange encompassed within this Interrogatory
 24 would outweigh any likely benefit.

25 Finally, the Commission objects to the Interrogatory's unqualified demand for all
 26 Documents and Communications as it encompasses information prepared in anticipation

1 of litigation and, therefore, protected by the work-product doctrine and deliberative
 2 process privilege.

3

4 **INTERROGATORY NO. 11:** With respect to Your allegation in Paragraphs 22 and 23
 5 of Your Amended Complaint that Defendants disseminated digital and print
 6 advertising representing that GCU had transitioned back to a nonprofit on websites, social
 7 media, press releases, video marketing and social media,” identify (a) the Defendant
 8 that made the representation; (b) the factual basis, including all principal and
 9 material facts, for Your allegation; and (c) all Documents, Communications, or
 10 conversations that support this allegation.

11 **INTERROGATORY NO. 11 RESPONSE**

12 The Commission responds only to subpart (a) of this Interrogatory.

13 (a) Defendant GCE, as exclusive marketer for GCU and performing services
 14 under the Master Services Agreement, and Defendant GCU, which authorized the
 15 advertising, marketing, promotion, offering for sale, or sale of GCU educational
 16 services, disseminated digital and print advertising, like the example that appears in
 17 Paragraph 22 of the Amended complaint, stating that GCU had transitioned back to a
 18 nonprofit.

19 (b), (c) The remaining subparts of these compound Interrogatories are overbroad,
 20 unduly burdensome, and premature at this early stage of discovery, particularly given
 21 Defendants’ failure to produce relevant Documents. The Commission objects to the
 22 request for “all principal and material facts” for the allegation as unduly burdensome and
 23 premature because of the volume of advertising and marketing materials. The
 24 Commission objects to subpart (c)’s request for “all Documents, Communications, or
 25 conversations that support this allegation” because it is overbroad, unduly burdensome,
 26 and premature. A request to search for and describe all Documents, Communications, or

1 conversations that support these allegations would require descriptions of many
2 Documents, Communications, or conversations of marginal, indirect, or secondary
3 support. Cataloging all such Documents, Communications, or conversations that support
4 this allegation would be unreasonably burdensome and not proportional to the needs of
5 this case as the representations span multiple years, and often repeated in materials for
6 different years and programs. The Interrogatory is overbroad and unduly burdensome
7 because Communications is defined in this Set of Interrogatories to include “every
8 exchange of information by any means . . . without limitation” and, thus, requests
9 identification of every interaction with a website, email, messaging platform, social
10 media, announcement, securities disclosure, flyer, brochure, presentation, or other media
11 in which Grand Canyon University representations appear. The Interrogatory is
12 overbroad and unduly burdensome because the definition of Communications states that
13 anything that “relates to any correspondence or communication” is “deemed” to be a
14 correspondence or communication—and defines “related” in a manner that encompasses
15 information that is far removed from the actual evidence of the representation. The
16 burden of compiling a description of each “deemed” Communication outweighs any
17 likely benefit. Demanding all Documents, Communications, or conversations that
18 support this allegation is also premature at this stage of discovery, in which Defendants
19 have not yet produced relevant Documents.

20 In addition, the instructions of this Set of Interrogatories construe “any” to mean
21 “each and every” and “any and all.” The burden of producing the information requested
22 by the Interrogatory for each and every exchange encompassed within this Interrogatory
23 would outweigh any likely benefit.

24 Finally, the Commission objects to the Interrogatory’s unqualified demand for all
25 Documents, Communications, and conversations as it encompasses information prepared
26 in anticipation of litigation and, therefore, protected by the work-product doctrine and
27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
PLAINTIFF FEDERAL TRADE COMMISSION

1 deliberative process privilege.

2

3 **INTERROGATORY NO. 12:** With respect to Your allegation in Paragraph 24 of
 4 Your Amended Complaint that Defendants' representations regarding GCU's
 5 nonprofit status were "material," identify (a) the Defendant that made the representation;
 6 (b) the factual basis, including all principal and material facts, for Your allegation;
 7 and (c) all Documents, Communications, or conversations that support this allegation.

8 **INTERROGATORY NO. 12 RESPONSE**

9 The FTC objects that this Interrogatory is ambiguous because it does not track the
 10 text of Paragraph 24 of the Amended Complaint, which quotes two statements
 11 describing the marketing impact of representations that GCU was a nonprofit. The FTC
 12 construes the Interrogatory as seeking the factual basis for the statements set forth in
 13 Paragraph 24. The statements appear in an article published by The Motley Fool,
 14 transcribing a video interview of Brian Mueller recorded on Oct. 1, 2018, under the title
 15 "Grand Canyon Education CEO Brian Mueller weighs in on the education field," and the
 16 edited transcript of the LOPE – Q4 2018 Grand Canyon Education Inc. Earnings Call,
 17 Feb. 20, 2019. The transcripts report that Defendant Mueller made the quoted
 18 statements.

19 The FTC objects to portions of subparts (b) and (c) of the Interrogatory
 20 demanding "all principal and material facts" and "all Documents and Communications
 21 that support this allegation," because they are overbroad, and unduly burdensome. The
 22 documents reporting the statements are sufficient to support the allegation, Defendant
 23 GCE has superior access to the facts, and no legitimate purpose is served by demanding
 24 that the FTC detail additional facts for this uncontested allegation. The Commission
 25 objects to the portion of the Interrogatory that requests "all Documents,
 26 Communications, and conversations" because it would be unreasonably

27 PLAINTIFF'S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.'S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

1 burdensome to require the FTC to catalog such information to establish that the statements
 2 were made. The Interrogatory is overbroad and unduly burdensome because
 3 Communications is defined in this Set of Interrogatories to include “every exchange of
 4 information by any means . . . without limitation” and, thus, requests identification of
 5 every interaction in which telemarketer expectation and metrics would appear. The
 6 Interrogatory is overbroad and unduly burdensome because the definition of
 7 Communications states that anything that “relates to any correspondence or
 8 communication” is “deemed” to be a correspondence or communication – and defines
 9 “related” in a manner that encompasses information that is far removed from the actual
 10 evidence of the representation. The burden of compiling a description of each “deemed”
 11 Communication outweighs any likely benefit.

12 In addition, the instructions of this Set of Interrogatories construe “any” to mean
 13 “each and every” and “any and all.” The burden of producing the information requested
 14 by the Interrogatory for each and every exchange encompassed within this Interrogatory
 15 would outweigh any likely benefit.

16 The Commission objects to the Interrogatory’s unqualified demand for all
 17 Documents, Communications, and conversations as it encompasses information prepared
 18 in anticipation of litigation and, therefore, protected by the work-product doctrine and
 19 deliberative process privilege.

20 If the Interrogatory is intended to request a legal analysis or precedent
 21 demonstrating that Defendants’ representations regarding GCU’s nonprofit status were
 22 “material,” the FTC objects that the Interrogatory improperly requests legal analysis
 23 protected by the work product doctrine.

24
 25 **INTERROGATORY NO. 13:** With respect to Your allegation in Paragraph 39 of
 26 Your Amended Complaint that GCE “provided its telemarketers with telephone numbers

27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

1 listed on the [Do Not Call] Registry even if GCE had no basis for claiming that
 2 telemarketing calls on behalf of GCU to a given number were permissible,” identify
 3 with specificity the factual basis, including all principal and material facts, for Your
 4 allegation that GCE had “no basis” for claiming that the telemarketing calls were
 5 permissible and identify all Documents, Communications, or conversations that support
 6 this allegation.

7 **INTERROGATORY NO. 13 RESPONSE**

8 In response to a civil investigative demand from the Commission, Defendant
 9 GCE produced data reporting the results of its efforts to identify records that would show
 10 that telemarketing calls made by GCE to telephone numbers on the National Do Not Call
 11 Registry were permissible under 16 C.F.R. § 310.4(v)(1)(iii)(B).

12 The data is labelled GCE-FTC-CID-013-00000001.txt and GCE-FTC-CID-018-
 13 00000005.txt. The data contains entries for more than 1.9 million telephone calls for
 14 which no basis for exemption under 16 C.F.R. § 310.4(v)(1)(iii)(B) could be identified.
 15 The data also contains entries for more than 800,000 additional telephone calls for which
 16 the entry for identifying documentation to support a claim that express written
 17 authorization was provided for the call is blank or reports that such documentation could
 18 not be located with entries that state “No Lead Form Screenshot Available” or “No
 19 Standardized EWC at time of Inquiry.” The absence of basis for telemarketing calls to
 20 telephone numbers on the Do Not Call Registry was also addressed in the testimony of
 21 Grand Canyon Education designee Dilek Marsh, and GCE’s responses to Civil
 22 Investigative Demand Interrogatory F.7(ii) (Oct. 5, 2023).

23 The FTC objects to portions of the Interrogatory demanding it to identify “all
 24 principal and material facts” and “all Documents, Communications, or conversations that
 25 support this allegation,” because they are overbroad, and unduly burdensome. The data
 26 and testimony described above is sufficient to support the allegation, Defendant GCE

1 has superior access to the facts, and no legitimate purpose is served by demanding that
 2 the FTC detail additional facts for this uncontested allegation. The Commission objects
 3 to the portion of the Interrogatory that requests “all Documents, Communications, and
 4 conversations” because it would be unreasonably burdensome to require the FTC to
 5 catalog such information for this allegation. The Interrogatory is overbroad and unduly
 6 burdensome because Communications is defined in this Set of Interrogatories to include
 7 “every exchange of information by any means . . . without limitation” and, thus, requests
 8 identification of every interaction in which telemarketer expectation and metrics would
 9 appear. The Interrogatory is overbroad and unduly burdensome because the definition of
 10 Communications states that anything that “relates to any correspondence or
 11 communication” is “deemed” to be a correspondence or communication—and defines
 12 “related” in a manner that encompasses information that is far removed from the actual
 13 evidence of the representation. The burden of compiling a description of each “deemed”
 14 Communication outweighs any likely benefit.

15 In addition, the instructions of this Set of Interrogatories construe “any” to mean
 16 “each and every” and “any and all.” The burden of producing the information requested
 17 by the Interrogatory for each and every exchange encompassed within this Interrogatory
 18 would outweigh any likely benefit.

19 Finally, the Commission objects to the Interrogatory’s unqualified demand for all
 20 Documents, Communications, and conversations to the extent that it encompasses
 21 information prepared in anticipation of litigation and, therefore, protected by the work-
 22 product doctrine and deliberative process privilege.

23
 24 **INTERROGATORY NO. 14:** With respect to Your allegation in Paragraph 59 of
 25 Your Amended Complaint that “[s]tudents’ ability to satisfy GCU’s requirements may be,
 26 and has been, thwarted and delayed by GCU’s actions or inaction, such as reassignment

1 of faculty, inconsistent demands during the dissertation review process, and delays
 2 caused by the conduct of faculty appointed by GCU to various roles in the dissertation
 3 review process,” identify (a) the factual basis, including all principal and material facts,
 4 for Your allegation; and (b) all Documents, Communications, or conversations that
 5 support this allegation.

6 **INTERROGATORY NO. 14 RESPONSE**

7 The Commission objects that this Interrogatory is overbroad, unduly burdensome,
 8 and premature at this early stage of discovery, particularly given Defendants’ failure to
 9 produce relevant Documents. The Commission objects to the request for “all principal
 10 and material facts” for the allegation as unduly burdensome and premature because of
 11 the volume of materials describing delays, personnel changes, inconsistent demands, and
 12 other failures in the doctoral program. Defendants enrolled more than 7,500 consumers
 13 in doctoral programs during the period described in the Amended Complaint, and these
 14 programs precipitated hundreds of requests and appeals related to faculty, inconsistent
 15 demands, and delays.

16 The Commission objects to subpart (c)’s request for “all Documents,
 17 Communications, or conversations that support this allegation” because it is overbroad,
 18 unduly burdensome, and premature. A request to search for and describe all Documents,
 19 Communications, or conversations that support Paragraph 59 would require descriptions
 20 of many Documents, Communications, or conversations of marginal, indirect, or
 21 secondary support. Cataloging all such all Documents, Communications, or
 22 conversations that support this allegation would be unreasonably burdensome and not
 23 proportional to the needs of this case as the representations span multiple years, and often
 24 repeated in materials for different years and programs. The Interrogatory is overbroad
 25 and unduly burdensome because Communications is defined in this Set of
 26 Interrogatories to include “every exchange of information by any means . . . without

27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

1 limitation” and, thus, requests identification of every interaction with a website, email,
 2 messaging platform, social media, announcement, securities disclosure, flyer, brochure,
 3 presentation, or other media in which information about the allegations in Paragraph 59
 4 appear. The Interrogatory is overbroad and unduly burdensome because the definition of
 5 Communications states that anything that “relates to any correspondence or
 6 communication” is “deemed” to be a correspondence or communication – and defines
 7 “related” in a manner that encompasses information that is far removed from the actual
 8 evidence of the representation. The burden of compiling a description of each “deemed”
 9 Communication outweighs any likely benefit. Demanding all Documents,
 10 Communications, or conversations that support this allegation is also premature at this
 11 stage of discovery, in which Defendants have not yet produced relevant Documents.

12 In addition, the instructions of this set of Interrogatories construe “any” to mean
 13 “each and every” and “any and all.” The burden of producing the information requested
 14 by the Interrogatory for each and every exchange encompassed within this Interrogatory
 15 would outweigh any likely benefit.

16 Finally, the Commission objects to the Interrogatory’s unqualified demand for all
 17 Documents, Communications, and conversations as it encompasses information prepared
 18 in anticipation of litigation and, therefore, protected by the work-product doctrine and
 19 deliberative process privilege.

20
 21 **INTERROGATORY NO. 15:** With respect to Your allegations in Paragraphs 69 and 72
 22 of Your Amended Complaint that Defendants made false or misleading statements
 23 regarding GCU being a non-profit institution and GCU’s doctoral programs in
 24 connection with advertising, marketing, promotion, offering for sale, or sale of GCU
 25 educational services, identify (a) the Defendant that made the statement; (b) the
 26 factual basis, including all principal and material facts, for Your allegation; and (c) all
 27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

1 Documents, Communications, or conversations that support this allegation.

2 **INTERROGATORY NO. 15 RESPONSE**

3 The FTC objects that this compound Interrogatory is multiple Interrogatories.
 4 The Interrogatory references Paragraph 69 and Paragraph 72 of the Amended Complaint,
 5 each of which describe two representations. Construed as four Interrogatories directed at
 6 each of the four representations, the FTC responds only to subpart (a).

7 (a) Defendant GCE, as exclusive marketer for GCU and performing services
 8 under the Master Services Agreement, and Defendant GCU, which authorized the
 9 advertising, marketing, promotion, offering for sale, or sale of GCU educational
 10 services, have represented that:

11 GCU is a non-profit institution;

12 GCU transitioned back to its prior manner of operating as a non-profit institution;
 13 GCU doctoral degrees that include a dissertation are typically completed in twenty
 14 courses or 60 credits; and

15 GCU's total charges for doctoral degrees that include a dissertation are the tuition
 16 and fees for twenty courses.

17 The representations in GCE and GCU advertising, marketing, promotion, and offering
 18 for sale of GCU educational services included statements attributed to Defendant
 19 Mueller stating that GCU is a non-profit educational institution and/or had reverted to
 20 the non-profit status that GCU held from 1949 to 2004.

21 (b), (c) The remaining subparts of these compound Interrogatories are overbroad,
 22 unduly burdensome, and premature at this early stage of discovery, particularly given
 23 Defendants' failure to produce relevant Documents. The Commission objects to the
 24 request for "all principal and material facts" for the allegation as unduly burdensome and
 25 premature because of the volume of advertising and marketing materials. The
 26 Commission objects to subpart (c)'s request for "all Documents, Communications, or

1 conversations that support this allegation” because it is overbroad, unduly burdensome,
2 and premature. A request to search for and describe all Documents, Communications, or
3 conversations that support these allegations would require descriptions of many
4 Documents, Communications, or conversations of marginal, indirect, or secondary
5 support. Cataloging all such all Documents, Communications, or conversations that
6 support this allegation would be unreasonably burdensome and not proportional to the
7 needs of this case as the representations span multiple years, and often repeated in
8 materials for different years and programs. The Interrogatory is overbroad and unduly
9 burdensome because Communications is defined in this Set of Interrogatories to include
10 “every exchange of information by any means . . . without limitation” and, thus, requests
11 identification of every interaction with a website, email, messaging platform, social
12 media, announcement, securities disclosure, flyer, brochure, presentation, or other media
13 in which Grand Canyon University representations appear. The Interrogatory is
14 overbroad and unduly burdensome because the definition of Communications states that
15 anything that “relates to any correspondence or communication” is “deemed” to be a
16 correspondence or communication — and defines “related” in a manner that
17 encompasses information that is far removed from the actual evidence of the
18 representation. The burden of compiling a description of each “deemed”
19 Communication outweighs any likely benefit. Demanding all Documents,
20 Communications, or conversations that support this allegation is also premature at this
21 stage of discovery, in which Defendants have not yet produced relevant Documents.

22 In addition, the instructions of this Set of Interrogatories construe “any” to mean
23 “each and every” and “any and all.” The burden of producing the information requested
24 by the Interrogatory for each and every exchange encompassed within this Interrogatory
25 would outweigh any likely benefit.

26 Finally, the Commission objects to the Interrogatory’s unqualified demand for all
27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
PLAINTIFF FEDERAL TRADE COMMISSION

1 Documents, Communications, and conversations as it encompasses information prepared
 2 in anticipation of litigation and, therefore, protected by the work-product doctrine and
 3 deliberative process privilege.

4

5 **INTERROGATORY NO. 16:** Identify each and every Person that You understood to
 6 be an employee or affiliate of Grand Canyon University or Grand Canyon Education with
 7 whom it is Your understanding that a consumer Communicated—in any form,
 8 fashion, or medium—about GCU’s nonprofit status, including the date(s) or
 9 approximate date(s) on which those discussions took place, the medium by which those
 10 discussions took place, and the employer or affiliate of each Person.

11 **INTERROGATORY NO. 16 RESPONSE**

12 The FTC objects that this Interrogatory is overbroad and unduly burdensome in
 13 requesting identification of *each and every* employee or affiliate of Grand Canyon
 14 University or Grand Canyon Education with whom a consumer Communicated—*in any*
 15 *form, fashion, or medium*—about GCU’s nonprofit status. Identification of each and
 16 every Person is unnecessarily burdensome and not proportional to the needs of this
 17 Litigation. GCE has employed hundreds of telemarketers, many identified as GCU
 18 counselors or advisors, and has recruited tens of consumers for since July 1, 2018. The
 19 expense and burden of compiling narrative details on every instance in which consumers
 20 Communicated in any form with an employee or affiliate of Grand Canyon University or
 21 Grand Canyon Education about representations about GCU’s nonprofit status would
 22 outweigh any likely benefits from such discovery. Moreover, to the extent that such
 23 Communications are memorialized, Defendants have superior access to relevant records.
 24 The Interrogatory is overbroad and unduly burdensome because Communications is
 25 defined in this Set of Interrogatories to include “every exchange of information by any
 26 means . . . without limitation” and, thus, requests the date and details of every consumer

1 interaction with a website, email, messaging platform, social media, announcement,
 2 securities disclosure, flyer, brochure, presentation, or other media in which Grand
 3 Canyon University is identified as a nonprofit. The Interrogatory is overbroad and
 4 unduly burdensome because the definition of Communications states that anything that
 5 “relates to any correspondence or communication” is “deemed” to be a correspondence
 6 or communication—and defines “related” in a manner that encompasses information
 7 that is far removed from a Communication with a consumer. The burden of compiling
 8 the date, medium and Persons for each “deemed” Communication outweighs any likely
 9 benefit. Furthermore, the Interrogatories are misdirected and premature at this early
 10 stage of discovery as Defendants have not yet produced information identifying their
 11 telemarketers or their records of their Communications with such consumers.

12 In addition, the instructions of this Set of Interrogatories construe “any” to mean
 13 “each and every” and “any and all.” The burden of producing the information requested
 14 by the Interrogatory for each and every exchange encompassed within this Interrogatory
 15 would outweigh any likely benefit.

16 Finally, the Commission objects to the Interrogatory’s unqualified demand for all
 17 Documents, Communications, and conversations as it encompasses information prepared
 18 in anticipation of litigation and, therefore, protected by the work-product doctrine, the
 19 informant’s privilege, and deliberative process privilege.

20
 21 **INTERROGATORY NO. 17:** Identify each and every Person that You understood to
 22 be an employee or affiliate of Grand Canyon University or Grand Canyon Education with
 23 whom it is Your understanding that a consumer Communicated—in any form,
 24 fashion, or medium—about any representations regarding the length of GCU’s
 25 doctoral programs, including the date(s) or approximate date(s) on which those
 26 discussions took place, the medium by which those discussions took place, and the

1 employer or affiliate of each Person at the time the Communication was made.

2 **INTERROGATORY NO. 17 RESPONSE**

3 The FTC objects that this Interrogatory is overbroad and unduly burdensome in
 4 requesting identification of *each and every* employee or affiliate of Grand Canyon
 5 University or Grand Canyon Education with whom a consumer Communicated—*in any*
 6 *form, fashion, or medium*—about *any* representations regarding the length of
 7 GCU’s doctoral programs.” Identification of each and every Person is unnecessarily
 8 burdensome and not proportional to the needs of this Litigation. GCE has employed
 9 hundreds of telemarketers, many identified as GCU counselors or advisors, and has
 10 recruited thousands of consumers for doctoral programs. The expense and burden of
 11 compiling narrative details on every instance in which consumers Communicated in any
 12 form with an employee or affiliate of Grand Canyon University or Grand Canyon
 13 Education about representations about the length of doctoral programs would outweigh
 14 any likely benefits from such discovery. Moreover, to the extent that such
 15 Communications are memorialized, Defendants have superior access to relevant records.
 16 The Interrogatory is overbroad and unduly burdensome because Communications is
 17 defined in this Set of Interrogatories to include “every exchange of information by any
 18 means . . . without limitation” and, thus, requests the date and details of every consumer
 19 interaction with a website, email, messaging platform, social media, announcement,
 20 securities disclosure, flyer, brochure, presentation, or other media in which the length of
 21 Grand Canyon University doctoral programs is referenced. The Interrogatory is
 22 overbroad and unduly burdensome because the definition of Communications states that
 23 anything that “relates to any correspondence or communication” is “deemed” to be a
 24 correspondence or communication—and defines “related” in a manner that encompasses
 25 information that is far removed from a Communication with a consumer. The burden of
 26 compiling the date, medium and Persons for each “deemed” Communication outweighs
 27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

1 any likely benefit. The Interrogatory is also overbroad because not all Communications
 2 regarding the length of doctoral programs concern the total costs, number of courses, or
 3 number of credits misrepresented by Defendants. Furthermore, the Interrogatories are
 4 misdirected and premature at this early stage of discovery as Defendants have not yet
 5 produced information identifying their telemarketers, the consumers recruited for
 6 doctoral programs, or their records of Communications with such consumers.

7 In addition, the instructions of this Set of Interrogatories construe “any” to mean
 8 “each and every” and “any and all.” The burden of producing the information requested
 9 by the Interrogatory for each and every exchange encompassed within this Interrogatory
 10 would outweigh any likely benefit.

11 Finally, the Commission objects to the Interrogatory’s unqualified demand for all
 12 Documents, Communications, and conversations as it encompasses information prepared
 13 in anticipation of litigation and, therefore, protected by the work-product doctrine, the
 14 informant’s privilege, the law enforcement privilege, and the deliberative process
 15 privilege.

16

17 **INTERROGATORY NO. 18:** Identify each and every false or misleading
 18 representation that you allege GCU or GCE made to the IRS, the Arizona Corporation
 19 Commission, or the Higher Learning Commission regarding GCU’s non-profit status.
 20 For each such alleged representation, identify (a) the Defendant that made the
 21 statement; (b) the factual basis, including all principal and material facts upon which
 22 you claim the representation was false or misleading; and (c) all Documents,
 23 Communications, or conversations that support this allegation.

24 **INTERROGATORY NO. 18 RESPONSE**

25 (a) Defendant Mueller filed articles of incorporation with the Arizona Corporation
 26 Commission that represent that Gazelle University was organized and operated

27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO
 PLAINTIFF FEDERAL TRADE COMMISSION

1 exclusively for charitable, religious, and scientific purposes within the meaning of
 2 Section 501(c)(3) of the Internal Revenue Code. The articles of incorporation also
 3 represented that no part of the net earnings or assets of Gazelle University shall inure to
 4 the benefit of, or be distributable on the dissolution or otherwise to, any trustee, officer,
 5 contributor or other private person or individual; and no property of Gazelle University
 6 shall be used or operated by Gazelle University or by any other person so as to benefit
 7 any trustee, officer, contributor, or any other person, through the distribution of profits,
 8 payment of excessive charges or compensation or the more advantageous pursuit of his
 9 or her business profession. Defendant Mueller and Gazelle University subsequently
 10 presented these articles to the IRS and Higher Learning Commission.

11 (b) Facts demonstrating that statements in the articles are false or misleading are
 12 described in the Department of Education Review of the Change in Ownership and
 13 Conversion to Nonprofit Status of Grand Canyon University, OPEID 00107400 (Nov. 6,
 14 2019); the Department of Education Reconsideration Review of the Change in
 15 Ownership to Nonprofit Status of Grand Canyon University, OPE ID: 00107400 (Jan.
 16 12, 2021); the Order on Motions for Summary Judgment in Grand Canyon University v.
 17 Cardona, No. CV-21-00177-PHX-SRB, ECR 96 (D. Ariz., Dec. 1, 2022), the
 18 administrative and summary judgment record in that Grand Canyon University v.
 19 Cardona, and the U.S. House Committee on Education and Labor Hearing on For-Profit
 20 College Conversions: Examining Ways to Improve Accountability and Prevent Fraud,
 21 Ser. No. 117- 7 (April 20, 2021). The Commission objects to the request for “all
 22 principal and material facts upon which you claim the representation was false or
 23 misleading” as unduly burdensome and premature for the reasons described below.

24 (c) The Commission objects to subpart (c)’s request for “all Documents,
 25 Communications, or conversations that support this allegation” because it is overbroad,
 26 unduly burdensome, and premature. A request to search for and describe all Documents,

1 Communications, or conversations that support this allegation would require descriptions
 2 of many Documents, Communications, or conversations of marginal, indirect, or
 3 secondary support. Cataloging all such all Documents, Communications, or
 4 conversations that support this allegation would be unreasonably burdensome and not
 5 proportional to the needs of this case given that discussions of re-characterizing Grand
 6 Canyon University date back to at least 2014, and findings and communications rejecting
 7 its claims to nonprofit status have occurred in the courts, legislature, and public
 8 pronouncements. Demanding all Documents, Communications, or conversations that
 9 support this allegation is also premature at this stage of discovery, in which Defendants
 10 have not yet produced relevant Documents.

11 Finally, the Commission objects to the Interrogatory's unqualified demand for all
 12 Documents, Communications, and conversations as it encompasses information prepared
 13 in anticipation of litigation and, therefore, protected by the work-product doctrine and
 14 deliberative process privilege.

15 DATED: November 7, 2024

16 Signing for Objections,

17 */s/ Michael E. Tankersley*
 18 Michael E. Tankersley
 Carlton Mosley
 Patrick Roy
 19 FEDERAL TRADE COMMISSION
 600 Pennsylvania Avenue NW
 20 Washington, D.C. 20580
 Telephone: (202) 326-2991
 21 Email: mtankersley@ftc.gov

22 *Attorneys for Plaintiff*
 23 *FEDERAL TRADE COMMISSION*

1 **VERIFICATION**

2 As authorized representative of the Federal Trade Commission, I, Sandhya P.
3 Brown, verify that the Answers in the foregoing Responses to Defendant Grand Canyon
4 Education, Inc.'s First Set of Interrogatories to Plaintiff Federal Trade Commission are
5 based on a reasonable inquiry and non-privileged information available to the Federal
6 Trade Commission, and are true and correct to the best of my information and belief.

7 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the
8 statements made in this declaration are true and correct.

9 EXECUTED on this 7th day of November 2024.

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13 Sandhya P. Brown
14 Associate Director
15 Division of Financial Practices
16 Bureau of Consumer Protection
17 Federal Trade Commission
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